

[List of Counsel Appears Below]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, a California corporation,

Plaintiff,

v.

MICRO THERAPEUTICS, INC., a Delaware
corporation, DENDRON GmbH, a German
corporation, and ev3 Inc., a Delaware corporation,

Defendants and Counterclaim
And Third Party Plaintiffs,

v.

BOSTON SCIENTIFIC CORPORATION, a
Delaware corporation, and TARGET
THERAPEUTICS, INC., a Delaware corporation,

Third Party Defendants.

Case No.: C 03 05669 (JW) (RS)

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING FACT
DISCOVERY AND EXPERT REPORTS**

Pursuant to Civil Local Rules 6-2 and 7-12, Plaintiff The Regents of the University of California (“The Regents”), Defendant and Third Party Plaintiffs Micro Therapeutics, Inc., Dendron GmbH and ev3 Inc. (collectively referred to herein as “MTI”), and Third Party Defendants Boston Scientific Corporation and Target Therapeutics, Inc. (collectively referred to herein as “Boston Scientific”) hereby stipulate and jointly request an order extending fact discovery and dates for service of expert reports as follows:

1 The Regents, MTI, and Boston Scientific stipulate and agree to an additional short
 2 extension of time on the fact discovery deadline. Declaration of Michelle M. Umberger ¶ 3
 3 (“Umberger Decl.”). This is to accommodate deposition schedules for certain witnesses. *Id.* The
 4 new fact discovery deadline will be extended from January 16, 2007 to January 19, 2007 for all
 5 claims, except that:

6 (1) The parties have agreed that the depositions of Tom Wilder (on January 26, 2007),
 7 Phong Pham (on a date to be determined), and James Corbett (on February 9, 2007)
 8 may be taken after the January 19, 2007 fact discovery deadline. *Id.*

9 (2) The Regents and MTI had previously agreed that the last day to respond to requests
 10 for authentication of documents shall be April 23, 2007, which is closer to the
 11 pretrial conference. *Id.*; *see also* Stipulation And Proposed Order Regarding Leave
 12 To File Supplemental And Amended Pleadings (Dkt. 361) at 2. Boston Scientific
 13 now joins this stipulation, and agrees that the last day to respond to requests for
 14 authentication of documents shall be April 23, 2007. Umberger Decl. ¶ 3.

15 The Regents and MTI have made one other request to change the date of fact discovery
 16 (from December 15, 2006 to January 16, 2007). *See* Stipulation And Proposed Order Regarding
 17 Leave To File Supplemental And Amended Pleadings (Dkt. 361) at 2. The parties are not asking
 18 to disturb the trial date set for June 5, 2007, and this extension shall not effect the schedule in this
 19 matter except as stated herein. Umberger Decl. ¶ 5.

20 The Regents, MTI and Boston Scientific also stipulate and agree that any motions to
 21 compel must be filed by January 30, 2007, consistent with the Local Rules.

22 The Regents, MTI, and Boston Scientific also stipulate and agree to a modest extension of
 23 time for service of expert reports. Umberger Decl. ¶ 4. This is to accommodate the extension of
 24 fact discovery. *Id.* The parties agree as follows:

25 (1) The deadline for Opening Expert Disclosures and Reports will be extended from
 26 January 16, 2007 to February 6, 2007;

27 (2) The deadline for Rebuttal Expert Disclosures and Reports will be extended from
 28 February 15, 2007 to March 1, 2007;

(3) The deadline for Reply Expert Reports will be extended from March 1, 2007 to March 15, 2007; and

(4) Expert discovery will close April 2, 2007, as currently scheduled. *Id.*

The parties have made no other requests to change the date of expert reports. Umberger Decl. ¶ 6. The parties are not asking to disturb the trial date and agree that this extension shall not effect the schedule in this matter except as stated herein. Umberger Decl. ¶ 5.

WHEREFORE, The Regents, MTI, and Boston Scientific respectfully request that this Court enter the [Proposed] Order lodged herewith approving the proposed extension.

IT IS SO STIPULATED.

DATED: January 10, 2007

By: /s/ Michelle M. Umberger

HELLER EHRMAN LLP

Michael K. Plimack (Bar No. 133869)

Michael.Plimack@Hellerehrman.com

333 Bush Street

San Francisco, CA 94104-2878

Telephone: (415) 772-6000

HELLER EHRMAN LLP

John S. Skilton (*Pro Hac Vice*)

John.Skilton@Hellerehrman.com

David J. Harth (*Pro Hac Vice*)

David.Harth@Hellerehrman.com

Charles G. Curtis, Jr. (*Pro Hac Vice*)

Charles.Curtis@Hellerehrman.com

Michelle M. Umberger (*Pro Hac Vice*)

Michelle.Umberger@Hellerehrman.com

Gabrielle E. Bina (*Pro Hac Vice*)

Gabrielle.Bina@Hellerehrman.com

Sarah C. Walkenhorst (*Pro Hac Vice*)

Sarah.Walkenhorst@Hellerehrman.com

One East Main Street, Suite 201

Madison, WI 53703

Telephone: (608) 663-7460

Facsimile: (608) 663-7499

Attorneys for Defendants/Counterclaimants and Third
Party Plaintiffs MICRO THERAPEUTICS, INC.,
DENDRON GmbH and ev3 INC.

1 DATED: January 10, 2007

By: /s/ Patrick S. Thompson
GOODWIN PROCTER LLP
J. Anthony Downs (*Pro Hac Vice*)
jdowns@goodwinprocter.com
Roland H. Schwillinski (*Pro Hac Vice*)
rschwillinski@goodwinprocter.com
Amanda Marie Kessel
akessel@goodwinprocter.com
Exchange Place
Boston, Massachusetts 02109-2881
Telephone: (617) 570-1000

Patrick S. Thompson
pthompson@goodwinprocter.com
101 California Street
San Francisco, CA 94111
Telephone: (415) 733-6000

FOLGER LEVIN & KAHN LLP
Julie Lynn Fieber (Bar No. 202857)
jfieber@flk.com
275 Battery Street, 23rd Floor
San Francisco, CA 94111
Telephone: (415) 986-2800

Attorneys for Third Party Defendants BOSTON
SCIENTIFIC CORPORATION and TARGET
THERAPEUTICS, INC.

16 DATED: January 10, 2007

By: /s/ Patrick E. Premo
FENWICK & WEST LLP
Lynn H. Pasahow (Bar No. 054283)
lpasahow@fenwick.com
Patrick E. Premo (Bar No. 184915)
ppremo@fenwick.com
Silicon Valley Center
801 California Street
Mountain View, California 94041
Telephone: (650) 988-8500

Attorneys for Plaintiff/Counter-defendant
THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: January 12 2007



~~RICHARD SEEBORG~~ JAMES WARE
United States Magistrate Judge
District 1261062